

@))

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2066 of 1992

For Approval and Signature:

HON'BLE DR.JUSTICE J.N.BHATT

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

AC TRIVEDI

Versus

CHAIRMAN & MANAGING DIRECTOR,
DENA BANK AND OTHERS

Appearance:

1. Special Civil Application No. 2066 of 1992
MR BP TANNA for Petitioner No. 1
MR RAJNI H MEHTA for Respondent Nos. 1-3
RULE SERVED for Respondent No. 3

CORAM : HON'BLE DR.JUSTICE J.N.BHATT

Date of decision: 11/01/2005

ORAL JUDGEMENT

1. The petitioner, by invocation of the provisions

of Article 226 of the Constitution of India, has challenged the order dated 12-09-1990 of dismissal from service inter alia contending that the Report of the Inquiry was not furnished and that the principles of natural justice were not observed.

2. A few relevant and material facts may be highlighted at this stage so as to appreciate the merits and challenge against the petition:

- i. The petitioner was working in the respondent-Bank as the Branch Manager, Santh Pipli Branch, Nadiad, who came to be charge-sheeted and was placed under suspension, mainly, on the ground of misconduct and dereliction of his duty. The charge-sheet was, therefore, served; Inquiry Officer was appointed; and the Inquiry Officer, upon evidence and facts and circumstances, found him guilty or delinquent for the charges against the petitioner.
- ii. The following charges mentioned in para-2 of the Chargesheet-cum-Suspension Order dated 16-12-1988 were levelled against the petitioner for various misconducts:
 - a. Lack of honesty / integrity / devotion / diligence in discharge of duties; and / or
 - b. Committing fraud in the Bank; and / or
 - c. Doing act/s prejudicial to the interest of the Bank, and/or
 - d. Act/s involving or likely to involve the Bank into risk of heavy loss; and/or
 - e. Act/s unbecoming of a Bank Officer.

4. As per the Inquiry Report, the charges against the petitioner were held 'proved', and the Disciplinary Authority, upon consideration of the Report as well as the facts and circumstances concurred with the Report of the Inquiry Officer and the petitioner was punished with the order of dismissal from service. The order of dismissal came to be recorded on 12-09-1990. It is amply clear from the record that the petitioner is held guilty and delinquent by the Inquiry Authority. The copy of the Report and findings dated 19-04-1990 and 25-05-1990 of the Inquiry Authority were examined by the respondent-authority, being the Disciplinary Authority, and the respondent-authority concurred with the findings recorded by the Inquiry Officer.

5. The learned Advocate, appearing for the petitioner, has raised the following contentions in support of the petition:

- i. That the petitioner-delinquent is not furnished with the Report of the Inquiry Officer and, therefore, the non-supply of the Report will vitiate the order of dismissal.
- ii. In the alternative, that the respondent-authority has not addressed itself to the question of prejudice having been caused or not for non-supply of the Report of the Inquiry Officer.

6. Both the points are threadbare examined, evaluated and meticulously analysed in the background of the relevant proposition of law by this High Court in similar petitions and, therefore, the present case is squarely covered by the following decisions of this Court:

- i. "Jyotindra C. Shah Vs. New India Assurance Co. Ltd., 2000 III CLR 992."
- ii. "Dilip H. Shah Vs. New India Assurance Co. Ltd., 2003 II CLR 221."
- iii. "H.B. Gorasia, since deceased, through his heirs Vs. New India Assurance Co. Ltd. and Ors." decided by this Court on 02-09-2004 in Special Civil Application Nos. 4475 of 1984 and 6776 of 1990, wherein the question of prejudice was considered in similar case and it was not upheld.

7. The reliance was, also, placed on the decisions of the Apex Court rendered in the the following cases:

- i. "Union of India Vs. Mohd. Ramzan Khan, (1991) 1 SCC 588 : AIR 1991 SC 471."
- ii. "Managing Director, ECIL, Hyderabad and Ors. Vs. B. Karunakar And Ors., (1993) 4 SCC 727 : 1993 II CLR 1129 SC."
- iii. "B.C. Chaturvedi Vs. Union of India and Ors., AIR 1996 SC 484".
- iv. "Capt. M. Paul Anthony Vs. Bharat Gold Mines Ltd. And Anr., 1991 LAB I.C. 1656."
- v. "Lalit Popli Vs. Canara Bank and Ors., AIR 2003 SC 1796."
- vi. "R.S. Saini Vs. State of Punjab And Ors., AIR 1999 SC 3579."

8. The proposition laid down in the aforesaid decisions, indubitably, has propounded that the

non-supply of the Inquiry Report, before the date of the decision of Ramzan Khan's case (supra), which is made operative prospectively, will not at all come in the way of the Disciplinary Authority and the proposition that the question of prejudice in absence of any such plea having been raised, cannot be considered, and admittedly, in this petition, no such plea is raised before the respondent-authority and before this Court also. Therefore, there is no substance and merits in this petition, which requires only and only one legal fate of rejection. Accordingly, it shall stand rejected. Rule discharged with costs.

(DR. J. N. BHATT, J.)

/shamnath